

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION

FREEDOM COALITION OF DOCTORS
FOR CHOICE,

Plaintiff,

v.

CENTERS FOR DISEASE CONTROL
AND PREVENTION, and U.S.
DEPARTMENT OF HEALTH AND
HUMAN SERVICES,

Defendants.

Civil Action No. 2:23-CV-00102-Z

DEFENDANTS' CROSS-MOTION FOR SUMMARY JUDGMENT

In this action, Plaintiff Freedom Coalition of Doctors for Choice (Doctors for Choice) alleges that Defendants Centers for Disease Control and Prevention (CDC) and the U.S. Department of Health and Human Services (HHS) (collectively, "Defendants") have violated the Freedom of Information Act (FOIA) by improperly withholding records, by denying Plaintiff's request to waive fees for the production of records, and by failing to make a timely determination on Doctors for Choice's administrative appeals of these decisions. (*See generally* Doc. 1.)

However, Defendants properly withheld those records pursuant to a FOIA exemption that protects information implicating a personal privacy interest from unwarranted disclosure. *See* 5 U.S.C. § 552(b)(6). Doctors for Choice also failed to

demonstrate during the administrative process that it meets the necessary criteria to be eligible for a fee waiver—plus Plaintiff was never charged any fees. Finally, Defendants *did* timely issue a decision on Doctors for Choice’s appeal of the fee waiver denial, and Plaintiff is not entitled to any relief for any delays in issuing a decision on its appeal of the decision to withhold records. Therefore, Defendants now move for summary judgment under Federal Rule of Civil Procedure 56 against all claims and causes of action asserted by Plaintiff.

Pursuant to local civil rule 56.3(b), each of the matters required by local civil rule 56.3(a) is set forth in the accompanying brief.¹ For the reasons given therein, Defendants request that summary judgment be granted in their favor, that Plaintiff’s complaint be dismissed with prejudice, and that all costs be taxed against Plaintiff.

¹ In accordance with the Court’s November 13, 2023 order (Doc. 25), Defendants are filing a consolidated brief in support of both their cross-motion for summary judgment and their response to Plaintiff’s motion for summary judgment.

Respectfully submitted,

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CERTIFICATE OF SERVICE

On November 24, 2023, I electronically submitted the foregoing document with the clerk of court for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the court. I hereby certify that I have served all parties electronically or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2).

/s/ Sarah E. Delaney
Sarah E. Delaney
Assistant United States Attorney